



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/611,494	06/30/2003	Brian J. Smyth	600754-3U1	6765

7550 04/18/2008
AKIN GUMP STRAUSS HAUER & FELD LLP
One Commerce Square
Suite 2200
2005 Market Street
Philadelphia, PA 19103-7013

EXAMINER

MANCHO, RONNIE M

ART UNIT	PAPER NUMBER
----------	--------------

3663

MAIL DATE	DELIVERY MODE
-----------	---------------

04/18/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/611,494

Applicant(s)

SMYTH ET AL.

Examiner

RONNIE MANCHO

Art Unit

3663

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 February 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 16-22 and 81-106 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 16-22 and 81-106 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 February 2008 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Drawings

I. The colored drawings and artifact submitted 2/26/08 have been received. The drawings are clearer and have acknowledged and entered on file.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 16-22, 81-106 are rejected under 35 U.S.C. 102(b) as being anticipated by Myr (2001/0029425).

Regarding claim 16, Myr (figs. 1, 3-5, 11, 13, 17, 18; abstract; pages 3-8) discloses a computer-implemented method of creating a virtual traffic network representing traffic conditions on a road system, the method comprising:

(a) inputting into a processor (CTU, see 0136; fig. 13) map data representing a road system, the road system being defined by a plurality of links (at 6 in fig. 13, the CTU receives map data about road systems. As clearly seen in figs. 20-23, the road systems inputted in the CTU are defined by a plurality of links; sec. 0162-0170, the links disclosed in the prior art figs. 20-23 meet applicant's definition of links e.g. a stretch of road between two nodes, etc in applicant's page 12, last section);

(b) inputting into the processor (CTU, sec 0136; fig. 13) flow data related to traffic flow on the road system (in sec. 0135 updated traffic flow data and accident reports which are related to traffic flow are inputted in the CTU; in sec. 0046 traffic situation on the roads which is related to traffic flow is inputted in the CTU. In the abstract, and sec. 0100, the probe vehicles act as sensors on the road links for collecting traffic flow data and forwarding the data to the CTU, etc);

(c) inputting into the processor (CTU, sec 0136; fig. 13) information about traffic events obtained from different sources of the flow data, including information that correlates the traffic events to specific links on the road system (see figs. 16-18, 20, sec. 0152-0154, 0164-0170; in sec. 0136 traffic information about traffic events such as accidents, weather are inputted into the CTU. In section 0100 probe vehicle transmit traffic information such as traffic congestion to the CTU, etc), wherein the traffic events are occurrences on the road system (figs. 9, 17, 20, 21, etc; sec. 0114 to 0121, 0152, 0163, 0167 to 0170) which may have an impact on the flow of traffic, and the traffic event information is inputted into the processor separately from the flow data (in section 0013, 0018, traffic flow data and traffic event data are collected separately for each section or road link shown in figs. 9, 17, 20, 21, etc; sec. 0114 to 0121, 0152, 0163, 0167 to 0170); and

(d) the processor (CTU, sec sec. 0010-0021) integrating the map data, the flow data and the traffic information to produce a virtual traffic network representing traffic conditions on the road system (at sec 0013-0018, 0063-0069, 019-0021; figs. 20-23 a virtual traffic network is produced as it is distributed to other vehicles requesting navigation guidance, the process is summarized in the abstract, sec. 0013-0021), wherein the virtual traffic network indicates both the flow data and the traffic event information (sec. 0013 to 0018, 0114 to 0121, 0152, 0163,

0167to 0170), the traffic event information being integrated by using the specific links on the road system that the traffic events are correlated to (see sec. 0010-0021; figs. 16-18, 20, sec. 0152-0154, 0164-0170)

Regarding claim 17, Myr (figs. 1, 3-5, 11, 13, 17, 18; abstract; sec. 0013-0021) discloses the method of claim 16 wherein the flow data is real-time flow data, the virtual traffic network representing real-time traffic conditions on the road system.

Regarding claim 18, Myr (figs. 1, 3-5, 11, 13, 17, 18; abstract; sec. 0013-0021) discloses the method of claim 16 wherein the flow data is input from a plurality of road sensors.

Regarding claim 19, Myr (figs. 1, 3-5, 11, 13, 17, 18; abstract; sec. 0013-0021) discloses the method of claim 16 wherein step (a) further comprises customizing the map data to define locally known features of the road system.

Regarding claim 20, Myr (figs. 1, 3-5, 11, 13, 17, 18; abstract; sec. 0013-0021) discloses the method of claim 16 wherein one of the traffic events are incidents and the information includes information related to incidents on the road system.

Regarding claim 21, Myr (figs. 1, 3-5, 11, 13, 17, 18; abstract; sec. 0013-0021) discloses the method of claim 16 wherein the map data, the flow data and the information have a synaptic relationship with each other.

Regarding claim 22, Myr (figs. 1, 3-5, 11, 13, 17, 18; abstract; sec. 0013-0021) discloses the method of claim 16 wherein the virtual traffic network is spatially oriented.

Regarding claim 95, Myr (figs. 1, 3-5, 11, 13, 17, 18; abstract; sec. 0013-0021) discloses the method of claim 16 wherein each link represents a distinct stretch of the road system between

two nodes, each node being a decision point on the road system (sec. 0013 to 0018, 0114 to 0121, 0152, 0163, 0167 to 0170).

Regarding claim 96, Myr (figs. 1, 3-5, 11, 13, 17, 18; abstract; sec. 0013-0021) discloses the method of claim 16 wherein each link represents a distinct stretch of the road system between two nodes, each node being where two or more roadways merge together (figs. 9, 17, 20, 21, etc; sec. 0114 to 0121, 0152, 0163, 0167 to 0170).

Regarding claim 97, Myr (figs. 1, 3-5, 11, 13, 17, 18; abstract; sec. 0013-0021) discloses the method of claim 16 wherein step (c) is performed by a human operator (figs. 8, 13, sec. 0112, 0136).

Regarding claim 98, Myr (figs. 1, 3-5, 11, 13, 17, 18; abstract; sec. 0013-0021) discloses the method of claim 16 further comprising:

(e) graphically displaying the virtual traffic network, including the map data, the flow data and the traffic event information (figs. 8, 13, sec. 0112, 0136), the graphical display showing the flow data and the traffic event information on a map representing the virtual traffic network (fig. 8, 17, 20, ect), the traffic event information being integrated into the map by using the specific links on the road system that the traffic events are correlated to (see sec. 0010-0021; figs. 16-18, 20, sec. 0152-0154, 0164-0170)

Myr anticipates claims 81-94, 99-106. That is Myr anticipates claims 16-22 and since claims 81-94, 99-106 are not patentably distinct from claims 16-22, Myr also anticipates claims 81-

Response to Arguments

3. Applicant's arguments filed 2/19/08 have been fully considered but they are not persuasive.

The drawings submitted 3/10/08 have been received, acknowledged and entered. Applicant's request for interview cannot be granted at this time because of time constraints related with prosecuting case. However, applicant may request another interview at a future time.

Applicant argues that the applicant's definition of "zones" in Myr in the last response to the official action was in error. Applicant then went forth to provide a new constructed definition of zones in the prior art Myr. The examiner respectfully disagrees with applicant's position. Applicant cannot construe and switch definitions to a term or phrase just for the purpose of confusing or overcoming the prior art. Applicant traverses the 102 rejections citing that Myr does not disclose correlating an accident report or weather report with a particular link of a roadway. Upon careful consideration of applicant's amendments and arguments and review of the Myr reference, it is noted that Myr still reads on applicant's claimed invention.

The examiner notes that limitations from the specification are not to be read into the claim language. Myr anticipates applicant's definition of links because according to applicant's definition, Myr (figs. 20-23) disclose a stretch of road between two nodes. It is further noted that Myr (figs. 9, 17, 20, 21, etc; sec. 0013 to 0018, 0114 to 0121, 0152, 0163, 0167 to 0170) anticipate the limitation. Applicant's definition of "zones" in Myr is contradictory because on one hand applicant insists that "zones" in Myr have no specific relationship to road "section".

Then on the contrary, applicant insists that “zones” are defined by criteria such as road density.

Thus it is clearly seen that applicant contradicts his definition of zones wherein applicant indicates that zones have a relationship to “road sections” through density of the road sections.

Applicant even admits on page 12, lines 24 and 25 that “the sections in Myr are defined by stretches of road between intersections”. Anyway, the invention is not about “zones”.

Therefore, applicant’s argument with respect to “zones” is not on point because the invention does not exclude zones. Applicant is reminded that the claims are open ended by reciting -- comprising:--, NOT --consisting:--. Applicant’s argument that figure 11 discloses zones and not road links is not convincing. The zones in fig. 11 are defined by roads (Myr, sec. 0124, 0126, 0135). As can also be seen in figs. 11 and 13, the zones are made up of roads. Therefore accidents, weather and traffic flow data, etc corresponding to a zone also correspond particularly to the road link in that zone. In addition, the zones in Myr can also be interpreted as stretches of sections of roads. It would be ingenious to indicate that there is traffic congestion or a ROAD accident for example in zone 11 of fig. 11 when there is no road section disclosed in that section or when that section is not considered. Therefore, when reports are made of road accidents in zone 6 (fig. 11), it implies that there is a *road* in zone 6 where a *road* accident occurred.

Applicant’s arguments are focused mainly on fig. 13, but fails to consider figs. 17, 20-24, etc. It is further noted that applicant’s statements on page 11 of arguments such as, “*Myr identifies the road within the zone that correlates to traffic event (e.g., accident report)*”; “*the specific road sections where these accidents occurred*”, etc are indications that the prior art anticipates the limitations as claimed.

Applicant's argument with reference to the limitation, CPU in the prior art does not correlate the zones with the links on a road system, is not claimed. That is the processor or CPU was not claimed to do correlation. It is further noted that Applicant's statement, "Myr does not disclose or suggest that anything else is done with the congestion/bottleneck information" is not claimed.

Although applicant copies and pastes the contents of sections e.g. 0013-0021, 0063-0069, figs. 20-23 cited by the examiner, the applicant has ignored the meaning of the context of the cited sections. These sections clearly indicate anticipation of the claims. The applicant merely indicates that these sections do not anticipate the claim. The examiner disagrees with all of applicant's arguments and notes that the prior art anticipates the claims.

It is believed that the rejections are proper and thus stand.

Communication

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ronnie Mancho whose telephone number is 571-272-6984. The examiner can normally be reached on Mon-Thurs: 9-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jack Keith can be reached on 571-272-6878. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Ronnie Mancho
Examiner
Art Unit 3663

4/12/2008

/Jack W. Keith/

Supervisory Patent Examiner, Art Unit 3663

Application Number**Application/Control No.**

10/611,494

**Applicant(s)/Patent under
Reexamination**

SMYTH ET AL.

Examiner

RONNIE MANCHO

Art Unit

3663